

Park County Commission Meeting Minutes  
Week of December 26 – 30, 2011  
Park County, Montana

December 26, 2011

Christmas Day Holiday Observed – All Offices Closed

December 27, 2011

Review Daily Agenda/Correspondence and Current County Projects

@8:37:10 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Raea Morris, administrative assistant; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to review the daily agenda and correspondence.

Correspondence included:

- Memo documents re. Montana Weed Control
- Memo email re. January 31 asphalt conference
- Memo document re. Crying Wolf dvd
- Memo document re. state of Montana annual financial report

@8:59:51 a.m., Durgan moved to adjourn the meeting. Malone seconded the motion. The meeting adjourned.

December 27, 2011

Public Hearing on Petition to Create Cooke City Sewer District

@9:06:38 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Raea Morris, administrative assistant; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled as a public hearing to consider a petition to create a Cooke City Sewer District.

Barbara Woodbury, environmental health, said calling for the election is the last step to take to form a sewer district in Cooke City. Clerk and Recorder Denise Nelson said she submitted a letter to the Commission that references Montana Code Annotated 7-13-

2204, which speaks to creating a sewer district and states a petition must be signed by at least ten percent of registered voters of the territory in question in the county or by the owners of all real property within the proposed district. Nelson said the civil deputy county attorney advised her that the county would go by the number of registered voters that lie within the district. She said her letter explains how her determination that at least 10 percent of the registered voters of the territory signed the petition was made.

Commissioner Malone moved to direct the county clerk and recorder to go forth with the sewer district, as the petition showed more than the ten percent required by (MCA) 7-13-2204. Commissioner Durgan seconded the motion. Motion passed.

Nelson said March 13, 2012, will be the actual election day to vote on creating the district, and the special election will be completed per mail ballot.

@9:25:10 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

#### December 27, 2011

##### County Road/Engineering Updates

@10:04:11 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Ed Hillman, road; Mark Westenskow, CTA; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to discuss county road issues and engineering updates.

Road Supervisor Ed Hillman said work on a Hamilton Road stream crossing has not commenced as a permit has not been received. Hillman said culverts on Z Hill are freezing as they do each winter, sending water down the roadway. He said crewmen are addressing the issue.

Mark Westenskow, CTA Engineering, said Commissioner Malone asked him to put together a preferred alternative location for a proposed compactor green box site in Gardiner.

@10:29:01 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

#### December 27, 2011

##### Human Resource Updates

@10:40:39 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Jill Ouellette, HR; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to discuss activities in the Human Resources Department.

Jill Ouellette, HR, provided the Commission with a change of status form for a sheriff's office deputy who has met longevity pay requirements.

@10:47:22 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

December 27, 2011

Review of Minutes for Week of December 19, 2011

@1:01:54 p.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present was John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to review Commission meeting minutes for the Week of December 19, 2011.

Commissioner Taylor requested a revision to Page 3 of 14, the first paragraph should read, "Commissioner Taylor said the board submitted a written statement saying it would like to appoint Jason Hahn for the remainder of a term left open by the passing of Bill Sommers." On Page 9 of 14, the first full sentence should read, "He said the county needs to be careful with having consultants do work that was initially scheduled for county staff in-kind efforts, such as obtaining construction easements, which will result in the county paying cash for those efforts." On Page 12 of 14; fifth paragraph the first sentence should read, "Reporting on upcoming long-term work efforts, Inman said moving into the process of amending the Cooke City zoning regulations will be a big project."

Commissioner Malone requested a revision to Page 10 of 14; first full paragraph, the third sentence should read, "Inman said Commissioner Malone has asked him to compose a letter to the FAA to inquire into ramifications the county may experience if the site is constructed in the proposed locale."

Commissioner Malone moved to accept the minutes as corrected. Commissioner Taylor seconded the motion. Motion passed.

@1:05:32 p.m., Malone moved to adjourn the meeting. Taylor seconded the motion. The meeting adjourned.

December 28, 2011

Daily Correspondence/Agenda and Briefing on Current County Projects

@8:38:24 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were

Raea Morris, administrative assistant; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to review the daily agenda and correspondence.

Correspondence included:

- Memo document re. county weed board application
- Memo email re. planning board realignment
- Memo email re. Gallatin County Juvenile Probation invoices
- Memo email re. rancher round table sessions
- Memo email re. Area IV Agency on Aging minutes
- Memo email re. Cooke City sewer district vote timetable
- Memo document re. Big Timber wastewater discharge permit
- Memo email re. January 19 county economic development district subcommittee

@9:06:53 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

December 28, 2011

9:00 A.M. – Claims Review – Commission Chambers

December 28, 2011

MSU Extension Update and Renewal of MSU Extension/Park County Cooperative Agreement

@10:02:40 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Tracy Mosley and Mary Anne Keyes, MSU Extension; and John Mueller, minutes clerk. No public comment made.

The meeting was scheduled to discuss activities conducted by MSU Extension and renew a cooperative agreement between Extension and Park County.

Mary Anne Keyes, MSU Extension, provided for signature a cooperative agreement between Park County and MSU Extension to enable continuation of Extension efforts in Park County.

Tracy Mosley, MSU Extension, said her efforts with promoting the Montana Cowboy Hall of Fame moving to Livingston has consumed a lot of her time, and Livingston has made the final cut of location cities along with Big Timber, Big Sky, Madison County and Wolf Point. She said a woman offered a donation of 10 acres and sale of 20 more at a reasonable price between the city of Livingston and Chico, and a final decision on location will be made late January or early February.

Mosley said RC&D hired a new executive director, she will hold a Rancher's Roundtable Series in Wilsall in January and February, host Master Gardner's classes in Livingston in February and March, applied for a grant to reduce cheat grass and submitted a second grant with hopes to launch a MSU Extension Ranch Institute and applied for a seat on an elk/brucellosis working group.

Keyes provided a 2011 Park County Fair report and said the fair livestock sale grossed over \$10,000 more than last year. She said a new 4-H year has commenced with about 150 traditional 4-Hers, and last year ended with 464 total 4-Hers, which include LINKS and SNAP program children. Keyes said LINKS wants to do a poultry project at Washington School as part of the school curriculum. Keyes said Park County was selected as a pilot Bioscience Montana project to work with MSU bioscience researchers in their labs on respective disciplines. She said she and Mosley are working to put on a Park County Leadership Institute through the EVOLVE project regarding community development. She said MSU is working with local stakeholders, such as the Park County Community Foundation, to put on the community-based leadership program. Keyes said she received a grant to provide blood pressure, cholesterol and sodium monitoring, and she conducted a canning workshop for the holidays and hopes to hold another after the master gardener clinic. She said a SNAP (Supplemental Nutrition Assistance Program) education program continues, but logistical issues can cause participants difficulty in attending and completing programs.

The Commission said it is amendable to Keyes holding Serve Safe classes in Big Timber for Sweet Grass County in the upcoming year.

Mosley said she will schedule a meeting with the Commission for guidance on the Grants Review Committee after the new year.

@10:43:37 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

December 28, 2011

Discussion/Decision on Awarding the Fleshman Creek Project Professional Engineering Services Contract

@11:04:30 a.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Shannan Piccolo, civil deputy county attorney; Lani Hartung, finance; Wes Venteicher, Livingston Enterprise; Mark Westenskow, CTA; Kurt Thomas, Stahly; Kerry Fee, Chuck Donovan and Gary Barnhart, citizens; and John Mueller, minutes clerk.

The meeting was scheduled to consider a decision on awarding a Fleshman Creek Project Professional Engineering Services contract.

Commissioner Taylor said three engineering firms of CTA Engineering, DOWL HKM and Stahly and Associates submitted Requests for Qualifications (RFQ) for the Fleshman

Creek Restoration Project. He said individual reviews were conducted by an eight-member review panel consisting of seven Park County elected officials and one department head. He said individual scores were tabulated and CTA Engineering scored the highest, with Stahly and DOWL HKM scoring the second and third highest. The panel was made up of Ed Barich, Linda Budeski, Jim Durgan, Marty Malone, Martha Miller, Denise Nelson, Randy Taylor and Barbara Woodbury.

Commissioner Malone asked if the Commission has an option to conduct oral interviews. He said a benefit of Stahly is that company is the engineer for the city of Livingston, and it would be beneficial to have them on the project with city street and other project work that will be required.

Commissioner Durgan moved to accept the high score, which shows CTA as the engineering firm of choice. Commissioner Malone said since Stahly is working with the city and did a wonderful job with bridges, and since a lot of sewer work will be required, he moves to nominate Stahly and Associates and will leave it to the chairman to second a motion. Commissioner Taylor seconded Durgan's motion. In discussion, Taylor said he does not want to go against decisions made by the eight-member review panel due to the time and effort the members put in. Motion passed unanimously.

Civil Deputy County Attorney Shannan Piccolo said she reviewed and re-reviewed the scoring as submitted by the individual panel members. Piccolo said the next step will be to go through contract negotiations, and if a contract cannot be agreed upon, the second highest scoring firm can be selected.

Gary Barnhart, citizen, asked the project stretch. Malone said the grant application as submitted by the county states the project stretches from wherever Freshman Creek airs near the Park Clinic to M Street, and it includes a Main Street bridge.

Kerry Fee, Park County Environmental Council, said he applauds the commissioners for moving forward on the project.

@11:18:11 a.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

December 28, 2011

Discussion/Decision Concerning Zoning in the Former Donut Zoning District

@1:30:44 p.m., Chairman Taylor called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Shannan Piccolo, civil deputy county attorney; Mike Inman, planning; Ed Hillman, road; Bill Berg, Peter Fox, Dale Reinhart, Frank Schroeder and Lewis Wilks, planning and development board; Wes Venteicher, Livingston Enterprise; Kerry Fee, Chuck Donovan, Nelson King, Don Gimbel, Ruswitha King and Priscilla Dysart, citizens; and John Mueller, minutes clerk.

The meeting was scheduled to consider a decision concerning zoning in the former Donut Zoning District.

Senior Planner Mike Inman said the Planning and Development Board made a recommendation at its December 15 meeting that the commissioners adopt emergency zoning for the donut zoning district to formally reinstate the zoning parameters that had been in place. He said that would enable the county to work during the one-year emergency zoning period on updating the regulations. Inman said he is making the same recommendation to the Commission, which would allow the status quo to be maintained in order to give the Commission time to collect public sentiment to address issues in the donut regarding the zoning regulations. He said addressing the regulations would involve moving forward with revisions and amendments, the process of which was underway until the county was served with a lawsuit from Heart K Land and Cattle Company. He said enacting the interim zoning would allow the county to manage growth under the old donut regulations to avoid incompatible uses springing up in the donut that may create conflict. He said the current down time with little development is a good time to take a year and work with the city of Livingston and Park County residents to come up with updated zoning regulations for the donut. Inman said he does not think the updated regulations will be significantly different than the former regulations, but definitions and some administrative provisions can be cleared up. He said the county may also want to consider more mixed-use zones and encourage ways to allow for more economic development within the donut due to the vastly different economic times. Inman said one planning board member, Dave Haug, said he would like to collect public comment before enacting the emergency zoning.

Dale Reinhart, planning board, said the board discussed that public comment should come during the emergency zoning period, and that comment would determine what should happen in the long-term. He said such is why the rest of the board voted as it did. Peter Fox, planning board, said it seems like the interim zoning is a prudent thing to do while the county gets organized and prepares to move forward with the Northern Rocky Mountain Economic Development District. Bill Berg, planning board, said citizens set the ground rules years ago in the donut with the zoning regulations and no one intended for those regulations to go away. He said it is a wise choice to enact interim zoning in the short term to look at what should come in the future. Frank Schroeder, planning board, said he agrees with sentiments shared about implementing the interim zoning.

Kerry Fee, citizen, said enacting the emergency zoning is his recommendation as a Wineglass homeowner, vice president of the Wineglass Homeowner's Association and president of the Park County Environmental Council.

Nelson King, president of the Wineglass Homeowner's Association, said people are used to the donut zoning regulations, and they protect individuals' property. He said having a free-flow period when anything could happen may cause people to have to address issues in the future. King said he is in favor of passing the emergency zoning measure.

Don Gimbel, Vision Livingston, said it is 100 percent common sense to not change the rules at this point in time.

Reinhart said he did not understand the court ruling, as the county planning board took over the former city/county planning board, which formerly ruled over the donut zoning district. Civil Deputy County Attorney Shannan Piccolo said the County Attorney's Office is of the opinion the procedure followed to dissolve the city/county planning board was done correctly, but the district judge ruled otherwise. She said regardless, the Commission voted last week to not appeal the decision of Heart K Land and Cattle Company v. Park County to the Montana Supreme Court.

Piccolo said the county will have to hold a public hearing, advertised at least twice, define the donut's geographic boundaries and ensure the implementation process is followed in order to enact interim zoning within the donut, which statutorily would last for one year. She said the county may have an option to apply for a one-year extension if adequate progress has been made in updating the former regulations but more time is needed to complete the updates. Piccolo said enacting the final zoning regulations would require yet another public hearing.

Inman said the Planning Department is capable of taking on the donut zoning regulations update effort, and the one-year interim period would provide time to collect public comment to form a draft version of the regulations by late summer or fall 2012. Inman said the Commission can de-enact the emergency zoning through a public hearing at any time.

Chuck Donovan, citizen, asked why the county does not allow the people who live in the donut to zone themselves. Donovan said people who are running the zoning should live in the donut, and he is in favor of a city/county planning board, because that board looked solely at the donut zoning district. Donovan said there is no emergency and he does not think emergency zoning is necessary. He said he wonders if the Commission should consider countywide building codes when looking into addressing the donut zoning regulations.

Reinhart said he trusts the planning board to not be arbitrary on the donut zoning regulation updating effort, and thinks the board would be a good facilitator of the public comment process. He said he has all the confidence in the board taking on the assignment if the Commission so chooses.

Commissioner Malone moved to move forward with the process of establishing interim zoning and direct the Planning Board, staff and legal counsel to ensure the process is done correctly. Commissioner Durgan seconded the motion. Motion passed unanimously.

Inman said the Planning Department will publish the hearing notice requirements, and said the Commission needs to identify ideas at the time of enacting interim zoning of the kind of process it would like to see in updating the donut zoning regulations. Malone

asked Inman to publicize the public hearing and comment sessions more times than required by law. Inman said he will schedule a public hearing for the Commission to consider adopting the former donut zoning in the form of the 1997 regulations, which were in effect until the recent Heart K lawsuit decision. He said that hearing will likely be held 30 days or more from present. Inman said he will work with the county GIS department for maps, and a copy of the regulations to be enacted must be provided for review. Inman said the county will call for public comment at the hearing, and he will advertise the county encourages written comment in advance of the hearing, as well.

\*Due to technical issues, an audio recording of this meeting was not captured.

@2:02:42 p.m., Malone moved to adjourn the meeting. Durgan seconded the motion. The meeting adjourned.

#### December 29, 2011

8:30 A.M. – Daily Correspondence/Agenda and Briefing on Current County Projects – Commission Chambers – Canceled due to no quorum of commissioners

9:30 A.M. – Appointing of Park County Local Advisory Committee Applicants – Commission Chambers – Canceled due to no quorum of commissioners

#### December 30, 2011

No Commission Meetings Scheduled

Randy Taylor, R.S.  
Chairman, Park County Commission  
Park County, Montana

Denise Nelson  
Clerk & Recorder  
Park County, Montana